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Chairman: Mr. Wenaweser ..... (Liechtenstein)

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02-67041 (E)

The meeting was called to order to 3.15 p.m.

Agenda item 106: Programme of activities of the International Decade of the World's Indigenous People (*continued*) (A/C.3/57/L.29)

Draft resolution A/C.3/57/L.29: indigenous people and issues

1. **Ms. Loemban Tobing-Klein** (Suriname), speaking on behalf of the sponsors, introduced the draft resolution.

Agenda item 107 (a): Elimination of racism and racial discrimination (*continued*) (A/C.3/57/L.32)

Draft resolution A/C.3/57/L.32: International Convention on the Elimination of All Forms of Racial Discrimination

2. **Ms. Tomić** (Slovenia) introduced the draft resolution on behalf of the sponsors listed in the document as well as Andorra, New Zealand, the Republic of Moldova and Switzerland.

3. **The Chairman** said that Belarus, Bangladesh, Croatia, the Czech Republic, Mongolia, Namibia, Panama, the Republic of Korea and Suriname had joined the sponsors of the draft resolution.

Agenda item 108: Right of peoples to self-determination (*continued*) (A/C.3/57/L.31 and L.33)

Draft resolution A/C.3/57/L.31: Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

4. **Mr. De Barros** (Secretary of the Committee) said that Sudan should be included in the list of sponsors in the English version of document A/C.3/57/L.31.

5. **Mr. Amorós Núñez** (Cuba) introduced the draft resolution on behalf of the sponsors listed in the document as well as the Comoros, Costa Rica and India.

6. **The Chairman** said that Benin, Liberia and Suriname had joined the sponsors of the draft resolution.

Draft resolution A/C.3/57/L.33: Universal realization of the right of peoples to self-determination

7. **Mr. Andrabi** (Pakistan) introduced the draft resolution on behalf of the sponsors listed in the document as well as Iraq and Kuwait.

8. **The Chairman** said that the Comoros, El Salvador and Eritrea had joined the sponsors of the draft resolution.

Agenda item 102: Advancement of women (*continued*) (A/C.3/57/L.18)

Draft resolution A/C.3/57/L.18: Situation of older women in society

9. **The Chairman** informed the Committee that the draft resolution entailed no financial implications.

10. **Ms. Loemban Tobing-Klein** (Suriname) introduced the draft resolution and **Ms. Weygel** (Sudan) read out the amendments agreed upon in informal consultations.

11. In the first preambular paragraph, the phrase "and emphasizing their obligations under the human rights instruments," should be replaced by the phrase "and guided by the purposes and principles of human rights instruments," and the remainder of that paragraph should be deleted.

12. In the second preambular paragraph, the word "and" before the words "resolution 36/4" should be deleted, and the following phrase should be added at the end of the paragraph: "and General Assembly resolution 56/126 of 25 January 2002 on the situation of older women in society".

13. After the fourth preambular paragraph, the following new paragraphs should be inserted:

> "*Recognizing* that older women outnumber older men, increasingly so with increasing age, and that the situation of older women everywhere must be a priority for policy action,
>
> "*Aware* that in order to ensure full equality between women and men it is essential to recognize the differential impact of ageing on women and men and to integrate a gender perspective into all policies, programmes and legislation,".

14. In the old sixth preambular paragraph, after the words "assistance to" the words "victims of" should be replaced by the words "those infected and affected by".

15. In the old ninth preambular paragraph, the words "in particular" before the words "older women" should be replaced by the word "including", and the phrase ", including educational opportunities" should be added at the end of the paragraph.

16. In paragraph 4, the word "the" before the words "non-governmental organizations" should be deleted and the word "concerned" after those same words should be replaced by the phrase ", where appropriate".

17. A new paragraph 5 bis should be inserted after paragraph 5, reading:

> "*Welcomes* the adoption in April 2002 by the Valencia Forum of research and academic professionals of the Research Agenda on Ageing for the Twenty-First Century, to support the implementation of the Madrid International Plan of Action on Ageing, 2002;"

18. In old paragraph 6, the word "the" before the words "non-governmental organizations" should be deleted and the word "concerned" after those same words should be replaced by the phrase ", where appropriate".

19. Old paragraph 7 should be replaced by the following paragraph: "*Calls upon* Governments and the United Nations system to ensure that the needs, perspectives and experiences of older women are reflected in all development policies and programmes;".

20. In old paragraph 8, the words "victims of" before the words "HIV/AIDS" should be replaced by the words "those infected and affected by".

21. Old paragraph 9 should be deleted and paragraph 10 and should be amended to read: "*Requests* the Secretary-General to include the situation of older women in society in his report on the follow-up to the Second World Assembly on Ageing.".

Agenda item 105: Promotion and protection of the rights of children (*continued*) (A/C.3/57/L.24/Rev.1)

Draft resolution on the girl child (A/C.3/57/L.24/Rev.1)

22. **The President** informed the Committee that the draft resolution contained no programme budget implications and recalled that, when it had been introduced, the representative of Namibia had orally deleted paragraph 16. He announced that Belarus, El Salvador, Indonesia, Panama, Poland and Uruguay had joined the sponsors of the draft resolution, namely, Andorra, Antigua and Barbuda, Australia, Austria, Azerbaijan, Belgium, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Bulgaria, Cambodia, Canada, Colombia, Costa Rica, Croatia, Cyprus, Denmark, Eritrea, Fiji, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Israel, Italy, Japan, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Monaco, Nepal, Netherlands, New Zealand, Norway, Paraguay, Peru, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Venezuela, Viet Nam and Yugoslavia.

23. **Mr. McCamman** (United States of America) said that his delegation had requested a vote on paragraph 1 of the draft resolution. Speaking in explanation of vote, he said that the United States was not a party to either of the conventions mentioned in that paragraph, did not agree that there was a need for universal ratification of the conventions and was not obliged to implement their provisions. Although the United States was not a party to the Convention on the Rights of the Child, in practice, the rights and protections enjoyed by children in the United States met or exceeded those protections enumerated in the Convention, through a multi-tiered system of national, state and local laws. The United States would have preferred to have had its legal position taken into account. Decisions on accession to a convention pertained to the sovereignty of each State. His delegation appreciated the efforts of Namibia and the South African Development Community to seek a compromise that would take into account the views of the United States, even though those efforts had not been successful. Given the situation, his delegation was obliged to request a vote on paragraph 1, in order to record its opposition to the way in which the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women were referred to in the draft resolution. Bearing in mind its vote against paragraph 1, the United States would allow the draft resolution as a whole to be adopted without a vote.

24. **The Chairman** said that, at the request of the representative of the United States of America, a

recorded vote would be taken on paragraph 1 of draft resolution A/C.3/57/L.24/Rev.1.

25. *At the request of the representative of the United States of America, a recorded vote was taken on paragraph 1 of draft resolution A/C.3/57/L.24/Rev.1.*

In favour:

Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gambia, Germany, Ghana, Greece, Guatemala, Guyana, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Lucia, San Marino, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia.

Against:

Marshall Islands, United States of America.

Abstaining:

Afghanistan, Haiti, Israel.

26. *Paragraph 1 of draft resolution A/C.3/57/L.24/Rev.1 was adopted by 144 votes to 2 with 3 abstentions.*

27. *Draft resolution A/C.3/57/L.24/Rev.1 as a whole was adopted.*

28. **Mr. McCamman** (United States of America), speaking in explanation of vote, said that the United States had joined the consensus on the draft resolution as an expression of its support for the promotion and protection of the human rights of the girl child. However, it disagreed with the thrust of paragraph 7, which could be read as creating obligations for States that were not parties to the international treaties. His delegation had attempted to make it less ambiguous by stating that it understood the intent of the paragraph to be that States parties had to implement the obligations they had assumed on ratifying those treaties. If that was indeed the intent of paragraph 7, then that was what it should say. If not, then it was advocating a new theory of international law, namely that States were bound by treaties merely because they existed and not because States had ratified them; that was a theory without basis in practice or law. In general, the United States was committed to improving the welfare of all children, including the girl child. It had demonstrated that commitment both at home and abroad, particularly in its support for education and health care programmes designed to assist women and girls in countries where they had been disadvantaged, such as Afghanistan.

29. **Mr. Alibabaee** (Islamic Republic of Iran) said that his delegation would have voted in favour of paragraph 1 of draft resolution A/C.3/57/L.24/Rev.1.

Agenda item 106: Programme of activities of the International Decade of the World's Indigenous People (*continued*) (A/C.3/57/L.7 and L.26)

Draft resolution A/C.3/57/L.7: Permanent Forum on Indigenous Issues

30. **The Chairman** drew the Committee's attention, before it took a decision on the draft resolution, to document A/C.3/57/L.26 containing its programme budget implications.

31. *Draft resolution A/C.3/57/L.7 was adopted.*

32. **Ms. Zack** (United States of America) said that her delegation was a firm supporter of the Permanent Forum and had therefore joined the consensus on the

draft resolution. However, it was concerned about the financial implications. The United Nations should make a greater effort to absorb the additional cost of establishing the secretariat of the Permanent Forum and the additional expenditures required for meetings. It also had some questions about some of the estimates of underlying costs. Her delegation intended to study the matter more closely in the Fifth Committee when the revised budget estimates for the biennium 2002-2003 were taken up.

33. **Mr. Tomoshige** (Japan), making a general comment on the draft resolution, said that his delegation understood the need to establish a secretariat unit for the Forum and hold a three-day pre-sessional meeting. It also appreciated the efforts the Secretariat had made to hold down the costs. However, as the contingency fund for the biennium 2002-2003 was nearly exhausted, his delegation believed that those costs should be absorbed within existing resources by redeploying them in accordance with General Assembly resolution 41/213, annex I, paragraph 9.

34. Regarding the statement of programme budget implications (A/C.3/57/L.26), Japan would like to make sure that the Committee did not endorse that statement or accept the two-phase approach the Secretary-General proposed or the need for six secretariat unit posts. Since the Permanent Forum had just begun its activities, it was very difficult for the Committee to decide at that stage how many staff members were needed in the secretariat unit. That decision should be left to the Fifth Committee, which would consider the matter thoroughly when it discussed the financial implications. His delegation intended to participate actively in those discussions.

Draft resolution A/C.3/57/L.27: International Decade of the World's Indigenous People

35. **Mr. De Barros** (Acting Secretary of the Committee) observed that in paragraph 4 (b) of the draft resolution, the General Assembly would request the United Nations High Commissioner for Human Rights, as coordinator for the Decade, to give due regard to the dissemination, from within existing resources and voluntary contributions, of information on the situation, cultures, languages, rights and aspirations of indigenous people and, in that context, to consider the possibility of organizing projects, special events, exhibitions and other activities addressed to the public, in particular to young people.

36. The Secretariat drew the Committee's attention to the fact that in resolution 45/248 B, section VI, the General Assembly had reaffirmed that the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions were responsible for administrative and budgetary matters.

37. **The Chairman** recalled that when the draft resolution had been introduced, Armenia, Austria, Bolivia, China, Costa Rica, the Democratic Republic of the Congo, El Salvador, Guyana, Italy, Luxembourg, Nigeria, Panama, Peru, Portugal, the former Yugoslav Republic of Macedonia and Venezuela had become sponsors. They were now joined by Antigua and Barbuda, Burkina Faso, Estonia, France, Liberia, Paraguay, Senegal, Suriname, Switzerland and Uruguay.

38. *Draft resolution A/C.3/57/L.27 was adopted.*

Agenda item 109: Human rights questions (*continued*) (A/57/311/Add.1; A/C.3/57/2)

(a) Implementation of human rights instruments (*continued*) (A/53/7 (Parts I and II), A/57/40, 44, 56, 173, 268, 291, 308, 399-400, 445 and 476)

39. **Mr. D'Alotto** (Argentina) said that the international human rights instruments were an expression of the common will of the international community to create a legal framework to guarantee the human rights of all individuals and ensure that States promoted and protected human rights and were accountable for their actions in that regard. The negotiation of optional protocols had made it possible to adapt the instruments to new circumstances. Argentina, because of its history over the last half-century, considered that it was crucial for those international mechanisms to operate effectively.

40. Governments had a responsibility to fulfil the obligations incumbent upon them by virtue of the human rights instruments, including the obligation to make the changes needed in their national and local legislation to bring them into compliance with the norms set out in the instruments and the obligation to submit periodic reports. The United Nations General Assembly, for its part, had a responsibility to review the work of the human rights treaty bodies, to ensure that they had the resources needed to function and to

periodically review how the legal instruments corresponded to contemporary realities.

41. The draft Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which established a mechanism for verifying detention conditions in the States parties, was the product of 10 years of negotiations and was a valuable instrument, which would enhance the efforts of the international community to prevent torture and other cruel, inhuman or degrading treatment or punishment. In response to the reservations of some delegations regarding budgetary or procedural issues, his delegation underscored the importance of the rights protected by the Optional Protocol and recalled that in many parts of the world torture and degrading punishment were still used as a means of interrogation or a disciplinary measure. The international community should therefore make an additional effort and implement a new mechanism that would allow torture to be combated more effectively.

42. In its decision 2001/221, the Economic and Social Council had endorsed the decision of the Commission on Human Rights to establish an inter-sessional open-ended working group with the mandate to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance. The Commission on Human Rights had instructed that working group to prepare the draft taking into account the Declaration on the Protection of All Persons from Enforced Disappearance. The task was of special relevance to Argentina, which committed itself to making every effort to prepare a draft international instrument that would put an end to that type of human rights violation and to impunity.

43. Argentina had included international human rights instruments in its domestic laws and had complied with its obligations to submit reports to the relevant treaty bodies. Those bodies should continue to examine their working methods and propose ways of improving State reporting procedures. The submission of reports should be streamlined so that the treaty monitoring bodies could examine them rapidly and make timely recommendations to the States. In that connection, Argentina welcomed the Secretary-General's initiative, set out in his report on the strengthening of the United Nations: an agenda for further change (A/57/387) regarding the possibility of crafting a more coordinated approach to the activities of the human rights treaty bodies and standardizing their varied reporting requirements. It awaited with interest the proposals which the Office of the High Commissioner for Human Rights would present in that respect.

44. **Ms. Khalil** (Egypt) said that her delegation considered human rights to be universal, indivisible, interdependent and interrelated. The international community should therefore deal with human rights issues in a fair and balanced manner. Cultural, economic and social rights merited the same attention as civil and political rights. Governments had the principal responsibility for protecting and promoting human rights. Any action against territorial integrity or State sovereignty should therefore be rejected.

45. With regard to the draft Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Egypt considered that it was important to combat all forms of torture and had been one of the first countries to accede to the Convention. One of the experts on the Committee against Torture was Egyptian. Egypt had played an active role in the negotiations on the draft Optional Protocol and considered that a consensus formulation could have been found, had it not been for some delegations which, wishing to impose their views, which were contrary to international norms, had hastened to adopt the draft text without regard to the comments of her delegation and other delegations with similar opinions.

46. Her delegation was opposed to the draft in its current form; first, for procedural reasons: no sovereign State could accept that its comments had been ignored and that a unilateral vision had been imposed, as had occurred in some parts of the text and in the general objectives. It had serious reservations about the adoption of the draft Optional Protocol without consensus, because it was against the principle of the universality of human rights and could establish a dangerous precedent.

47. Second, for reasons of substance: her delegation was convinced that the prohibition and prevention of torture should be asserted, but did not consider that it should have priority over other issues, such as sovereignty. In its current form the draft Optional Protocol violated the sovereignty of States and gave the sub-committee which would be established unlimited

authority to make inspections, at any time and in any place, without the prior authorization of the State.

48. The draft did not have the necessary balance between support for national mechanisms to prevent and combat torture and the competence of international mechanisms in that area. The consensus and cooperation of the international community were needed to ensure the success of the international instrument and the new mechanisms it would establish. Unfortunately, that element was lacking in the draft Optional Protocol, which had had a divisive conception and continued to be controversial because it did not respect the opinions and comments of many countries.

49. **Mr. Cisneros** (Mexico) said that the question of elaborating a comprehensive and integral international convention on protection and promotion of the rights and dignity of persons with disabilities was of particular interest to his country. His delegation noted with satisfaction the substantive progress that had been made one year after President Vicente Fox had proposed to the General Assembly that an Ad Hoc Committee should be established to elaborate such a convention and that it had subsequently been established pursuant to resolution 56/168. In order to contribute to the work of the Ad Hoc Committee, Mexico had, in June 2002, with the support of the United Nations, organized a meeting of experts on the future convention. The national and international experts who had participated had had before them a text containing elements for a convention, which had been the result of the joint work of governmental agencies and civil society in Mexico and had served as a basis for a wide-ranging debate not only on that text but also on the principles and guidelines for the elaboration of the convention. The new version of the draft convention had been submitted to the Ad Hoc Committee at its first session, held from 29 July to 9 August 2002.

50. He acknowledged the support of various actors, in particular the sensitivity that had been demonstrated to facilitate the participation of non-governmental organizations in the work of the Ad Hoc Committee, in accordance with decision 56/510, sponsored by the European Union and Mexico. The participation of those organizations was fundamental in order to raise awareness of the topic and their contribution was indispensable if the convention was to be able to provide viable responses to the needs of persons with disabilities. It should be noted also that, on the proposal of Canada, the United States and Mexico, certa n technical conditions had been agreed upon for the United Nations documents and facilities that would enable persons with disabilities to participate in the work of the Ad Hoc Committee. At its first session, the Ad Hoc Committee had had thematic discussions which had proved to be essential to an understanding of how the convention would deal with civil and political rights and economic, social and cultural rights. Another very important result was the integration of persons with disabilities into the delegations participating in the work of the Ad Hoc Committee.

51. Mexico did not claim leadership or primacy in the promotion and protection of the rights of persons with disabilities. The purpose of its efforts to promote the convention was to establish the ideas and initiatives of various countries and non-governmental organizations which had not yet come to fruition and to strengthen the negotiation process, while taking into account the interests of persons with disabilities. It supported the holding of national, regional and world meetings which would contribute to the preparatory process for the next session of the Ad Hoc Committee.

52. **Mr. Gansukh** (Mongolia) said that the progress achieved in the promotion and protection of human rights, one of the greatest achievements of the past century, should serve as a basis for reflection on the future work of the United Nations. The Member States had an important role to play by fully respecting the Universal Declaration of Human Rights and ratifying and implementing the major international human rights instruments. Moreover, the establishment of strong human rights institutions at the national level would ensure that human rights were protected in a sustained manner. Mongolia was a party to over 30 international human rights instruments. In November 2000, it had acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and in 2001 it had signed the two Optional Protocols to the Convention on the Rights of the Child. Mongolia had been one of the first countries to sign and ratify the Rome Statute of the International Criminal Court.

53. The effective implementation of the human rights instruments was an important issue. The Member States continued to adopt the necessary measures to give full effect to them within their respective jurisdictions. Mongolia, prompted by the democratic reform initiated in the 1990s, had amended its legislation to bring it into line with international

standards. For example, according to article 10 of the Constitution, all norms of international treaties to which Mongolia was a party would, upon ratification, be equally binding within its jurisdiction. The commitment of the Government of Mongolia to human rights was further embodied in various national plans of action, the most recent of which was the programme on "Good governance for human security". The National Commission for Human Rights had been established and it was expected to become an efficient watchdog of human rights. Pursuant to a decision taken at the National Human Rights Conference, held in December 2000 with the broad representation of non-governmental organizations, the National Human Rights Action Plan had been launched in May 2001; the main characteristic of the Plan was greater involvement of civil society in its development and implementation.

54. It was clear that greater efforts were needed throughout the world, as well as in Mongolia, to ensure that every individual could enjoy the rights set out in the Universal Declaration. In cooperation with the United Nations country team in Mongolia, the Government of Mongolia was committed to promoting the enjoyment of human rights and improving the living conditions of the Mongolian people through support for democracy and socio-economic development. Mongolia was grateful for the assistance of the Office of the High Commissioner for Human Rights and reiterated its wish to continue to cooperate with it to strengthen national human rights institutions and to develop regional and international cooperation in the field of human rights.

55. *Ms. Leyton (Chile), Vice-Chairman, took the Chair.*

56. **Ms. Kang Kyung-wha** (Republic of Korea) said that her delegation concurred with the Secretary-General's observation that the rise and diffusion of human rights norms and conventions had been one of the truly great achievements of the past century and that the United Nations had been at the centre of those efforts. Her delegation applauded the growing importance of human rights in the overall work of the Organization. The integration of human rights into strategies to promote peace and security and sustainable development should be pursued not only as a guiding principle cutting across the United Nations system but also in national development efforts. That work could be facilitated by the effective implementation of human rights instruments. Her delegation reiterated its support for the six core human rights instruments and its commitment to abide by its treaty obligations. Her Government had recently submitted its eleventh periodic report to the Committee on the Elimination of All Forms of Racial Discrimination and would shortly submit its second periodic report to the Committee against Torture.

57. Unfortunately, the integrity of the treaty bodies could be undermined by non-reporting, backlogs and lack of follow-up. The problem must be tackled from both ends: easing the burden on States parties and underscoring the importance of meeting treaty obligations, while enhancing effectiveness in the deliberation of, and follow-up to, the recommendations of the treaty bodies. Her delegation supported the idea of streamlining the work of the treaty bodies and promoting greater coordination among them. It welcomed the task entrusted to the High Commissioner for Human Rights of producing recommendations in that regard, in close consultation with the treaty bodies. The exploration into ways of enhancing their effectiveness should fully respect the integrity and unique requirements of each body.

58. The year 2001 had given rise to numerous human rights instruments. In the Republic of Korea, the national human rights committee, established in November 2001, had begun its work with excellent results. To date, it had received more than 2,000 complaints and had settled or was in the process of settling half of them. At the international level, the Ad Hoc Committee to consider proposals on a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities had held its first meeting. The General Assembly was expected to adopt a new human rights norm at the current session: an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Republic of Korea had voted in favour of its adoption at the substantive session of the Economic and Social Council. The decision had been the result of much debate among the relevant ministries in her country and reflected its resolve to participate in the efforts of the international community to enhance human rights standards and its commitment to the work of translating the optional protocol into action.

59. **Mr. Schurti** (Liechtenstein) said that the draft Optional Protocol to the Convention against Torture

marked a significant step forward in the global fight against torture. After 10 years of deliberation and negotiation, the General Assembly was in a position to adopt the best possible text, having benefited from the recommendations of the Commission on Human Rights and the Economic and Social Council. His delegation welcomed the protocol. It created no new standards or new instruments but instead established a subcommittee of independent experts to assist States in implementing the provisions of the Convention against Torture. Despite the prohibition of torture under customary law and various regional and international instruments, violations continued to occur around the world. The new protocol addressed a long-standing issue in precise terms and thus added to an effective implementation of the prohibition of torture. Furthermore, by focusing on the prevention of torture, it contributed to the creation of a culture of prevention in the sphere of human rights, which was a significant achievement.

60. The remaining concerns with respect to the protocol seemed to centre on the financing of the subcommittee. It had been suggested that only States parties to the instrument should bear the costs incurred and that no funding should come from the regular budget. His delegation disagreed with that view, since the provision contained in article 25 was consistent with General Assembly resolution 47/111, which clearly stated that treaty bodies should receive funding from the United Nations regular budget, a provision that was reaffirmed in the Vienna Declaration and Programme of Action. Furthermore, the provisions concerning funding were consistent with the spirit of the Organization, for which human rights were a core activity. Funding from the regular budget would ensure that all States, including those with limited financial resources, ratified the protocol, in keeping with the goal of achieving universal ratification of human rights instruments.

61. Universal ratification of all six core human rights treaties had to remain a priority, but the focus should also be on implementation and development of the impressive set of legal instruments in the realm of human rights. A good example in that regard was the draft Optional Protocol to the Convention against Torture. Liechtenstein was a party to the core treaties of the United Nations, was preparing to accept the communications procedure under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination and had already accepted the procedures for individual communications provided for under the other human rights treaties. The work of the treaty bodies was of crucial importance, not only to the implementation of the human rights treaties in general, but also in each State. Liechtenstein had benefited from the dialogue with the treaty bodies. The recommendations made by the Committee on the Elimination of All Forms of Racial Discrimination had been introduced into the national plan of action to eliminate racial intolerance, while many of the recommendations of the Committee on the Elimination of All Forms of Discrimination against Women had inspired political and legislative initiatives.

62. The reporting obligation could strain the human resources of small States. The production of core documents alleviated the problem, but there had to be other ways of facilitating the dialogue between States parties and treaty bodies without diminishing the quality of the work. The efforts to rectify the shortcomings of the current system, as outlined in the Secretary-General's report on the strengthening of the United Nations (A/57/387), were encouraging. In particular, the idea that committees should coordinate better their activities was interesting. In that context, his delegation had been glad to learn of the first inter-committee meeting of the human rights treaty bodies in June 2002.

63. **Mr. Zenna** (Ethiopia) said that Ethiopia's commitment to the protection and promotion of human rights was stated unequivocally in the 1994 Federal Constitution. The Constitution, the principal elements of which were derived from the principles contained in international human rights instruments, laid the foundation for a democratic order that would pave the way for the rule of law and full respect for and enjoyment of human rights. With regard to State institutions, the Government had taken steps to establish an independent judiciary with organized structures at the federal and state levels to ensure the implementation of the human rights provisions of the Constitution and of the international covenants to which Ethiopia was a party. Legislation had been adopted recently to establish the Human Rights Commission and the Office of the Ombudsman. Legislation had also been enacted to protect vulnerable groups, such as women, children and ethnic minorities. For instance, the aim of the national policy on women was to ensure their full participation in the political,

economic, social and cultural life of the country. It should also be recalled that Ethiopia had accepted and facilitated the opening of a subregional office of the Office of the United Nations High Commissioner for Human Rights. Moreover, the Government had developed a code of conduct that provided a framework for collaboration with civil society, which was essential for the protection of human rights. It had resulted in some notable achievements in awareness-raising and advocacy programmes.

64. He reiterated that national efforts needed to be backed by external financial and technical assistance in order to strengthen national human rights institutions, in particular for the training of judiciary and law enforcement officials.

65. **Ms. Tomič** (Slovenia) said that, even though it was universally condemned as one of the worst human rights violations, torture was still practised throughout the world. Slovenia considered that no effort should be spared to combat it and therefore supported the adoption, during the current session of the General Assembly, of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, an instrument that was a necessary and indeed long overdue step towards the prevention and elimination of torture. Regional experience, such as the work of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, demonstrated the usefulness of an international mechanism to complement national institutions in providing the necessary oversight of places of detention and imprisonment. Her delegation considered that the functioning of the new instrument should be financed from the regular budget of the United Nations, as were the other bodies created by the human rights treaties.

66. It was necessary to work towards the universal ratification of the six core human rights instruments of the United Nations, all of which Slovenia had already ratified, with the consequent effects on domestic legislation. States should comply fully with their obligations under international treaties, including the timely presentation of periodic reports. The process of reporting and the ensuing dialogue with the treaty monitoring bodies permitted verification of effective implementation at the national level. It would, however, be useful to streamline the reporting process with a view to reducing the considerable burden on States parties. In that connection, her delegation welcomed the first inter-committee meeting of the human rights treaty bodies held in June 2002, at which proposals had been made to enhance collaboration among those bodies during the consideration of States parties' reports.

67. To improve the quality of reports and reduce the delay between the submission of a report and its consideration, the bodies concerned could include cross-references in their comments and formulate joint general comments and recommendations. They could also adopt procedures to follow up on the implementation of final observations, such as the procedure adopted by the Human Rights Committee, including the recent appointment of a Special Rapporteur for follow-up on concluding observations, and the new follow-up mechanism adopted by the Committee against Torture. The lists of issues and questions addressed to a State party should be submitted well in advance of the examination of a report in order to allow a State to give thorough replies. The concluding observations should be precise and practical so as to help States parties to implement them. Likewise, realistic time should be allowed for their implementation, particularly where a change in domestic legislation was required. Thematic meetings of the treaty bodies should be encouraged as they contributed to the enhancement and transparency of the protection of human rights in a given area.

68. States should ensure strict compliance with the obligations stemming from the human rights instruments. Treaties should be implemented in their entirety and States should, as far as possible, avoid resorting to reservations. Moreover, if they did make reservations, they should ensure that they were consistent with the scope and intent of the instrument and were formulated as precisely and narrowly as possible. States should also increase the level of acceptance of the individual complaint procedures. In that connection, just before the Durban Conference, Slovenia had lodged a declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, thus recognizing the competence of the Committee on the Elimination of Racial Discrimination to consider individual communications claiming violations of the rights established in the Convention.

69. Her delegation supported the establishment of new standards wherever existing instruments did not satisfactorily regulate human rights concerns. For

example, there was a lacuna in international law regarding protection from enforced disappearance and her delegation would play an active role in the work of the intersessional working group established by the Commission on Human Rights for the elaboration of an instrument on that issue.

70. **Mr. Hussain** (Pakistan) said that, at the World Conference on Human Rights, held in Vienna in 1993, universal respect for human rights and fundamental freedoms had been envisioned as a necessary precondition for international peace and security. The Vienna Declaration held that peoples had an inalienable right to political self-determination and could take any legitimate action to realize it. It also affirmed the universal right to development, recognized that international cooperation was necessary to achieve it and emphasized the importance of alleviating poverty, which was an impediment to the full enjoyment of human rights. It further affirmed that the right to freedom from torture should be protected in all circumstances, including in times of internal or international disturbance or armed conflict, and insisted on the need to eliminate impunity. The Vienna Declaration and Plan of Action had marked the consolidation of progress in the promotion of human rights, which had culminated in the establishment of the Office of the United Nations High Commissioner for Human Rights. As the Secretary-General stated in his report on the strengthening of the United Nations (A/57/387), the promotion and protection of human rights was a bedrock requirement for the realization of the Charter's vision of a just and peaceful world and no effort should be spared to promote respect for all internationally recognized human rights and fundamental freedoms. The protection of human rights was possible only if a neutral and objective political criterion was adopted to prevent very large or very powerful States from obstructing the course of justice, as unfortunately was continuing to occur in many parts of the world.

71. The people of Jammu and Kashmir were unable to exercise their right to self-determination and were victims of occupation and brutal repression by India, which continued to perpetrate acts of State terrorism on the pretext of cooperating in the counter-terrorist struggle of the international community, when its real intention was to repress and denigrate the inhabitants of Kashmir who were fighting for their freedom. Force and fraud had been the principal instruments used by India to legitimize its occupation of Jammu and Kashmir. Once again, sham elections had been held, controlled by 700,000 Indian soldiers and without the presence of international observers. The Jammu and Kashmir Coalition of Civil Society, an Indian non-governmental organization which had monitored the process, stated in its report that the people had boycotted the elections, that the security forces, on instructions from the authorities, had coerced the people to cast their votes, and that the people of Jammu and Kashmir could not see the elections as a substitute for the free and impartial plebiscite envisaged in the resolutions of the Security Council.

72. They were not, however, the only victims of human rights abuses by India. The militant wing of the Bharatiya Janata Party (BJP) or Indian People's Party, composed of Rashtriya Swayamsevak Sangh (RSS), Vishwa Hindu Parishad (VHP) and Bajrangdal, had, under official patronage, engaged in genocide, ethnic cleansing and pogroms against the Muslims. The carnage at Gujarat had taken a toll of over 2,000 Muslim lives, and arson and attacks on members of that minority, who were living under the constant threat of another catastrophe, continued. International sources had confirmed that the genocide in Gujarat had been financed by Indian communities in the United States of America, the United Kingdom and many other countries. The funds contributed had served to buy Trishol missiles and other weapons used in the Muslim bloodbath. In order to bolster his sagging popularity as a candidate in future elections, the Chief Minister of Gujarat, Narindra Modi, and the leadership of VHP continued to incite violence against the Muslim community.

73. States which, like India, were in grave breach of the provisions of the Charter, the resolutions of the United Nations and their treaty obligations should be subjected to sanctions and the jurisdiction of special criminal tribunals. In accordance with the Charter and international humanitarian law, the people of Kashmir were entitled to receive the support of the international community in order to realize their inalienable rights to self-determination, life, freedom from torture, freedom from fear and persecution, and dignity. The resolution of the dispute over Jammu and Kashmir was imperative in order to ensure lasting peace and security in South Asia, which had been held hostage to India's militaristic and hegemonic designs, and would enable over 1 billion poor people to realize their right to

development. The international community was obliged under the Charter and the Vienna Declaration to act firmly to resolve the dispute in accordance with the wishes of the people of Kashmir.

74. *Mr. Wenaweser (Liechtenstein) resumed the Chair.*

75. **Mr. Kaminek** (Czech Republic) said that the right to freedom from torture was recognized in most international human rights instruments adopted over the past 50 years, which prohibited the States parties from using or tolerating torture in any circumstances. There was even a special convention on the issue. However, that right continued to be violated in all parts of the world. It therefore appeared that torture could not be eliminated solely by prohibitions, monitoring and ex post facto investigations and that isolated action at the national level was not sufficient. Those concerns had led to the elaboration of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the provisions of which relating to international cooperation and prevention could pave the way for a gradual improvement of the overall situation and the social climate so that eventually no room would be left for torture. Much time and money had been spent on the negotiations on the Optional Protocol. It should be emphasized that the Protocol did not focus on condemnation or investigation, but solely on the prevention of torture. On the basis of its experience, the Czech Republic was convinced that the Protocol would make a very practical contribution to the prevention of torture. Torture caused enormous suffering and destroyed the very essence of human existence: dignity. There could therefore be no compromises — financial or other. The adoption of the Optional Protocol at the current session would be a huge step towards the total elimination of torture and would demonstrate the importance which the United Nations attached to the dignity of vulnerable people and its commitment to protect them from torture.

76. **Ms. Tinangon** (Indonesia) emphasized the importance of the international human rights instruments and said that, during her country's transition to democracy, one of the priorities of the Government had been to strengthen the protection of the fundamental human rights of citizens. To that end, the National Plan of Action on Human Rights for 1998-2003 had been adopted. The Plan had established a timetable for the achievement of goals in four areas: the ratification of international human rights instruments, education on human rights issues, implementation in priority areas concerning human rights, and the domestic implementation of international human rights instruments. A second five-year plan of action for the years 2003-2008 was being drafted and would build on the success of the first. In addition, the Government was preparing to ratify the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, which had been formally approved by the President and would soon be approved by the parliament. Since the adoption of the first Plan in 1998, Indonesia had become a party to several major international human rights instruments and was harmonizing existing legislation with those instruments or, where necessary, adopting new legislation. Thus Human Rights Law 39/1999 and Law 26/2000 had laid the groundwork for the protection of human rights in Indonesia and reflected the commitment of the Government to protect the rights of the people. In just a short time Indonesia had made much progress in the establishment of institutions which in other countries had evolved over decades or even centuries. For example, the National Commission on Human Rights (Komnas HAM), which was independent of the Government, had been empowered by Human Rights Law 39/1999 to subpoena witnesses, including government officials, and physical evidence of human rights abuses. Pursuant to Law 26/2000, human rights courts had been established.

77. Each country was entitled to determine its own priorities in the promotion of human rights, in accordance with its interests, culture, customs and resources. Emerging democracies required the moral, technical and financial support of the established democracies, but the face of democracy must be shaped in the national image. Her Government was trying to build a safer, securer future for its citizens, but, as demonstrated by the terrorist attack in Bali against innocent civilians on 12 October 2002, there were forces intent on thwarting it. The Government was endeavouring to settle conflicts within Indonesia by peaceful and democratic means and to conduct its external relations through dialogue. It ardently desired to join with the international community in fighting terrorism, which was the true threat to human rights and human life. With respect to the reporting mechanisms under international human rights instruments, it was concerned about various

deficiencies, especially the lack of standardization of procedures among the various monitoring bodies, and would like to see the situation remedied so that the burden on the reporting countries was reduced.

78. **Mr. Alabi** (Nigeria) said that, since the advent of democracy in Nigeria, the Government had rededicated itself to improving the human rights situation, in keeping with its genuine resolve to change past records on human rights. Many bills had been submitted to the National Assembly for the purpose of ratifying international human rights instruments. The ratification of the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, together with the strict observance of the Convention on the Rights of the Child, were among the steps taken to consolidate policies and actions for the promotion and protection of the rights of children.

79. Efforts continued to promote positive actions for the advancement of the rights of women, pursuant to the Convention on the Elimination of All Forms of Discrimination against Women. Policies had been adopted and mechanisms put in place at all levels to achieve gender mainstreaming and the practical involvement of women in politics and decision-making.

80. With respect to the Shariah judgement which had generated so much concern about the human rights situation in Nigeria, President Olusegun Obasanjo had made several statements to allay fears and give assurance that the judgement in question would not be executed. Given the thoroughness of the Nigerian legal system, no one could be stoned to death. Nigeria was fully conscious of its obligations under the human rights instruments and would continue to uphold respect for the rule of law and due process. The Government was therefore committed to respect for the supremacy of the Nigerian Constitution, which allowed the federating states the freedom to make laws in specific areas determined by the Constitution, provided that they were not inconsistent with its provisions.

81. While recognizing the need for the realization of civil and political rights through commitment to democracy, good governance and the elimination of corruption, his delegation emphasized the importance of also devoting attention to the achievement of social, economic and cultural rights and development, which called for the provision of good health services, functional education, employment and shelter, without which civil and political rights would amount to nothing.

82. The capacity of developing countries to promote human rights was constrained by such factors as inadequate technology, poor communication facilities, poverty, ignorance and diseases like tuberculosis, malaria and HIV/AIDS, which continued to claim the lives of the active population in developing countries, with dire consequences for the economy. That situation constituted a serious human rights constraint and should engage the Committee's attention. Terrorism was also a serious hindrance to the promotion and enjoyment of human rights and economic development at both national and international levels. His Government was opposed to terrorism and reaffirmed its belief that the conduct of all actors in international relations must conform to the tenets of international law. It therefore urged the international community, through the United Nations system, to address all factors that encouraged terrorism. It was imperative to embrace the virtue of tolerance and abide by the principles of justice, equality and equity for all in conducting all relations, if there was to be lasting peace and security in the world.

83. Pursuant to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Nigeria continued to prohibit the use of torture and inhuman treatment on its nationals and would continue to adopt measures to promote national reconciliation in its multireligious, multi-ethnic society and to cooperate with the United Nations and other entities in the fight to eliminate torture and advance the promotion of the rights and dignity of all persons without discrimination.

84. His delegation shared the view that each State had the obligation to implement all human rights instruments within its jurisdiction. Nonetheless, it would be more meaningful to continue to cooperate in the formulation of human rights instruments with objectivity, in order to achieve the understanding and consensus necessary for wide acceptability, thereby facilitating the adoption of vital human rights instruments. He therefore urged Member States to cooperate to realize that noble goal.

85. **Mr. McCamman** (United States of America) said that his country condemned torture unequivocally, had

fought to eliminate it throughout the world and had led international efforts to put pressure on Governments to publicly condemn torture, to enact appropriate legislation, to investigate and prosecute abusive officials, to train law enforcement officers and medical personnel, and to provide compensation and rehabilitation for victims. The United States had strongly supported the work of the United Nations Special Rapporteur against torture, was a party to the Convention against Torture and was the single largest donor to the Voluntary Fund for Victims of Torture, to which it had contributed $5 million during fiscal 2002.

86. His delegation regretted the manner in which the draft protocol had been put to the vote in the Commission on Human Rights and subsequently in the Economic and Social Council. It had been agreed in General Assembly resolution 41/120 that new human rights treaties should attract broad international support. The votes in the Commission on Human Rights and the Economic and Social Council had demonstrated that there was substantial disagreement regarding the draft protocol rather than broad international support for it.

87. Nonetheless, his delegation strongly supported efforts to enhance implementation of the existing Convention against Torture. In the Commission on Human Rights it had submitted an alternative text for the protocol which would have enabled the existing Committee against Torture to make voluntary visits to States parties as follow-up to their reports. It had also informally indicated a willingness to consider the inclusion of an "opt-in" clause permitting ad hoc visits. Regrettably, that effort had proved unsuccessful.

88. The United States opposed the draft protocol on both substantive and financial grounds. The investigative mechanism provided for could not carry out ad hoc or targeted visits of any kind and was permitted only a minimal follow-up visit, thereby raising doubts about its potential effectiveness. Moreover the United States could not become a party to an instrument that prohibited reservations. His country was also opposed to providing funding through the United Nations regular budget. As with other optional treaties, the States parties to the protocol should pay the implementation costs, and non-parties should not be required to share the financial burden. The United States could not accept the proposed financing scheme of mandatory assessments on all States Members of the United Nations. Many Member States could not meet their current obligations. The estimated annual cost of the new mechanism was substantial and would have a significant impact on the United Nations regular budget. Forcing all States to pay when many would not become parties to the protocol was unfair. Moreover, the protocol would compete with the Committee against Torture and other human rights mechanisms for limited United Nations resources and thereby weaken existing measures to combat torture.

89. The proposal that the protocol should be financed by the States parties had raised the objection that a dangerous precedent for human rights instruments would thereby be created. But the contrary was true. General Assembly resolution 47/111, which provided for funding of the six existing treaty bodies, had been adopted when each of those bodies had enjoyed widespread international acceptance. A dangerous precedent was being set by supporters of the protocol, who were trying to arrange regular budget financing for a treaty that was conspicuous by its lack of widespread acceptance.

90. His delegation agreed that the protection of human rights should not be dictated by financial considerations. Because of its abhorrence of torture, the United States was seeking and had sought the strongest means to end that terrible practice. The draft protocol did not accomplish that purpose. The proposed regime represented a potential diversion of resources from the work of other, more results-oriented bodies, including the Committee against Torture. Accordingly, the United States would submit an amendment to the Costa Rican draft resolution in order to reflect its concerns regarding the proposed funding of the protocol.

91. **Ms. Lewis** (International Labour Organization) said that migration today was about work. The number of countries employing foreign labour had increased from 42 to 90 between 1970 and 2000 and the issue was now being acknowledged as a major concern for employers, workers and ministries of labour. Many Governments had recognized the need to modernize and improve their respective legislation, policies and practices. Migration involved employment and social protection issues, but it also required anti-discrimination and integration initiatives.

92. Isolated measures could not ensure decent treatment for migrant workers or resolve tensions

between the sometimes differing interests of national and foreign workers. The complexities of migration required a comprehensive framework of legislative measures to reconcile the benefits and challenges of migration with the dignity and rights of migrants. Most of the elements for such an approach were already incorporated in existing ILO and United Nations Conventions. The International Labour Organization welcomed the imminent entry into force of the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which, combined with the two ILO Conventions on migrant workers (Nos. 97 and 143), on which the United Nations Convention was modelled, provided a comprehensive legal framework for migration, the treatment of migrants, inter-State cooperation and the prevention of exploitation and irregular migration.

93. The three Conventions provided a wealth of information and guidance on how to manage migration and develop a migration policy. In particular, they offered countries guidelines on how to establish a transparent labour migration admissions system to measure and respond to legitimate needs for foreign labour, while taking into account domestic labour demands. The establishment of a system of legal labour migration channels could help to reduce irregular migration and the exploitation, trafficking and smuggling of migrants. It was estimated that, of the 80 to 90 million migrant workers and their dependants living in countries other than their own, 15 per cent were working on an irregular basis, owing partly to the increasing commercialization of the private recruitment process, but also to a growing practice in developed countries of applying unduly restrictive immigration policies.

94. A second basic element was a standards-based approach to the management of migration which protected the basic rights of all migrants and combated exploitation and trafficking. Experience in various countries had demonstrated that enforcement of minimum labour and workplace standards served as an effective deterrent to irregular migration and employment by discouraging the exploitation that made the utilization of unauthorized foreign workers attractive to certain employers.

95. A major incentive for the exploitation of migrants, and ultimately forced labour, was the lack of application and enforcement of labour standards in countries of destination. A third basic element was thus the enforcement of minimum national employment standards to protect migrant and non-migrant workers and to criminalize abuse of persons. A necessary complement was monitoring and inspection in such areas as agriculture, domestic work, the sex industry and other sectors of "irregular" employment, in particular to identify and prevent the exploitation of young women and children.

96. A final element was the establishment of mechanisms for consultation and coordination with social partners in the elaboration and practical implementation of migration policies, in order to ensure coordination within the government and with civil society in all areas of concern, such as the supervision of the recruitment and administration of admissions of foreign workers, the training of public service and law enforcement officials, recognition of educational equivalencies and the provision of social and health services for migrant workers and recovery services for the victims of trafficking.

97. The feminization of migration and the predominance of abuse of women migrants required the elaboration of gender-sensitive migration policies which recognized gender equality as integral to the process of policy-making, planning and programme delivery and ensured not only equal treatment but also equal outcomes.

98. The International Labour Organization had participated actively in the Global Campaign launched in 1998 to promote ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and it looked forward to the twentieth ratification so that the Convention could soon enter into force.

The meeting rose at 5.45 p.m.

United Nations A/C.3/57/SR.32

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Summary record of the 32nd meeting
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Chairman: Mr. Wenaweser ..... (Liechtenstein)

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The meeting was called to order at 3.10 p.m.

Agenda item 105: Promotion and protection of the rights of children (*continued*) (A/C.3/57/L.25)

Draft resolution A/C.3/57/L.25: "Rights of the child"

1. **Ms. Sereno** (Uruguay), speaking on behalf of the Group of Latin American and Caribbean States and the European Union, introduced the draft resolution and stated that Andorra, Australia, Austria, Bangladesh, Bhutan, Cameroon, Cape Verde, China, Congo, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Iceland, Kyrgyzstan, Lithuania, Monaco, Namibia, Nigeria, Poland, Republic of Moldova, Romania, San Marino, Slovakia, the Former Yugoslav Republic of Macedonia, Ukraine, United Republic of Tanzania and Viet Nam had also become sponsors. The draft resolution was general in nature. Some new material had been added, including the items contained in the outcome document of the twenty-seventh special session of the General Assembly, which had been held the previous May. Consultations on the draft resolution were still taking place, and a revised text reflecting the results of those consultations would be presented in due course.

2. **The Chairman** said that Armenia, Azerbaijan, Benin, Burkina Faso, Cameroon, Indonesia, Kazakhstan, Liberia, Liechtenstein, Malawi, Mali, Mongolia, Namibia, Nigeria, Slovakia and Switzerland had also become sponsors.

Agenda item 109: Human rights questions (*continued*)

(a) Implementation of human rights instruments (*continued*) (A/C.3/57/L.30)

Draft resolution A/C.3/57/L.30: "Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment"

3. **Mr. Stagno** (Costa Rica) introduced the draft resolution on behalf of the sponsors, and stated that Antigua and Barbuda, Mongolia and East Timor had also become sponsors. In adopting the draft resolution, the Committee would officially be adopting an Optional Protocol to the Convention Against Torture which established an active mechanism for monitoring places of detention. That mechanism would be made up of a new Subcommittee on Prevention of Torture and national prevention mechanisms which would undertake periodic visits to places of detention in States parties to the Protocol. The Protocol was one of a new generation of human rights instruments that were designed to encourage co-operation between States, rather than confrontation.

4. Some delegations had found it regrettable that neither the Commission on Human Rights nor the Economic and Social Council had adopted the Optional Protocol by consensus. His delegation, too, would have preferred to reach a consensus, but it had no doubt that the text currently before the Committee, which was the product of protracted, exhaustive discussion, was the best possible agreement. The draft resolution had attracted progressively larger majority support every time it had been put to a vote. Consequently, the time had come to listen to a majority of the international community, which wished to establish an effective mechanism for preventing torture.

5. **The Chairman** said that Liberia had also become a sponsor of the draft resolution.

6. **Mr. Tomoshige** (Japan) said that it was unfortunate that there still had been no open-ended unofficial consultations on the draft resolution, despite the fact that some delegations had asked the sponsors to hold such consultations. In view of the fact that the Member States were creating a new human rights instrument, it was essential for all relevant issues to be considered transparently and openly. His delegation again asked the sponsors to organize unofficial consultations, and, in accordance with rule 153 of the General Assembly's Rules of Procedure, asked the Secretary-General, through the Chairman of the Committee, to report on the implications of the draft resolution for the programme budget. That was the usual practice when a new human rights instrument was developed, as, for example, when the Committee had adopted the Convention on the Rights of the Child and the International Convention on the Rights of Migratory Workers and their Families.

7. **Mr. Gaffney** (United States of America) expressed support for the position of the Japanese delegation. The Committee should be informed about the financial impact of the Optional Protocol, which in the view of his delegation was likely to be substantial.

8. **Ms. Taracena Secaira** (Guatemala) directed the Committee's attention to the omission of the words "to

the General Assembly" in the fourth preambular paragraph of the Spanish-language version of the draft resolution.

9. **The Chairman** invited the Committee to resume its general debate on agenda item 109 (a), and stated that at least one delegation would be speaking to agenda item 109 (d) as well.

10. **Ms. Ouedraogo** (Burkina Faso) said that, with reference to agenda item 109 (a), her delegation supported the universal ratification of human rights instruments, in accordance with the Vienna Declaration and Programme of Action. Burkina Faso was a party to the six core human rights instruments and was considering the possibility of ratifying the protocols to several of them. Despite the country's difficult social and economic situation, the Government was doing its utmost to fulfil its commitments concerning the implementation of human rights instruments and reporting thereon to the competent bodies. It had recently submitted its second periodic report to the Committee on the Rights of the Child.

11. Her delegation welcomed the first inter-committee meeting of treaty bodies on the submission of reports, and endorsed its conclusions and recommendations. Meetings of that kind fostered the strengthening, harmonization and improvement of the working methods of the organizations in question, which could learn valuable lessons from the way the Committee on the Rights of the Child functioned.

12. Her delegation supported the draft resolution on the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and wished to emphasize that the issue of funding should not be allowed to stand in the way of the implementation of the mechanism contemplated in the Protocol.

13. **Mr. Kumar Panja** (India) said that the adoption of the Vienna Declaration and Programme of Action had been an important milestone in the field of human rights and embodied the broadest possible consensus on human rights that the international community had achieved since the adoption of the Universal Declaration of Human Rights. The year 2003 would mark the tenth anniversary of the adoption of the Vienna Declaration. In the intervening years, substantial progress had been made. In India, greater recognition and awareness of human rights had been achieved as a result of widespread participation in democratic processes and greater autonomy for all groups in society. The Vienna Declaration acknowledged that democracy, development and human rights were interdependent and mutually reinforcing. Unfortunately, international discussion of human rights continued to be marred by perceptions of selectiveness, double standards and the politicization of human rights for petty, self-serving purposes. The promotion and protection of human rights and fundamental freedoms were incumbent upon the entire international community. As the ten-year review of the Vienna Declaration and Programme of Action approached, it was essential to work harder than ever to attain their objectives and promote confidence in the effort to achieve international co-operation.

14. The Secretary-General was to be commended for the reports on agenda item 109 (a) that had been presented to the Committee, but it was unfortunate that not all of them had been made available in a timely manner. It was essential for reports to be distributed early enough to ensure that delegations had time to consider them and formulate comments on them. With respect to the effort to enable human rights treaty bodies to function more effectively, any measures to that end should be adopted on a co-ordinated basis. His delegation hoped that, in line with the United Nations tradition of seeking consensus on important matters, the Member States would reach agreement on the question of how those treaty bodies could be helped to function more effectively.

15. In the current debate over human rights, marked as it was by the horrors of terrorism, it would be folly to overlook the fundamental human right, namely, the right to life. Other rights would be worth but little if States did not protect that most basic right of their citizens.

16. **Mr. Choi** (Australia), speaking on behalf of Australia, Canada, Chile, Norway and New Zealand, said that the work of the human rights treaty bodies in monitoring States parties' fulfilment of their obligations under the six core human rights instruments was a fundamental pillar of the system of promotion and protection of human rights. None the less, as progress was made toward the goal of universal ratification, the many challenges that were eroding the effectiveness of the system would inevitably increase. Hence the importance of the Secretary-General's report on the strengthening of the United Nations (A/57/387), which pointed to the growing complexity of the human

rights machinery and the strain of reporting obligations on States and the Secretariat. The procedure was in need of improvement, and there was much that States Parties, the treaty bodies, the Office of the United Nations High Commissioner for Human Rights and other components of the system could do to improve it. The committees themselves were adopting a more proactive approach to improving their working methods, and several treaty bodies had begun to hold open forums with States parties. It would be desirable for all the committees to hold such meetings on a yearly basis, over and above the regular annual meeting with the treaty body chairs. Noteworthy progress on co-ordination had been made in 2002. In June, for example, the first Inter-Committee Meeting of treaty bodies had been held, with the support of the Secretariat; the participants had considered the benefits of a more co-ordinated and consistent approach to rules of procedure, working methods, scheduling of reports and dialogues, practices to be followed for non-reporting States, general comments and concluding observations. Such changes would streamline the system and make the best possible use of limited resources. The decision to organize a second inter-committee meeting in 2004 was therefore to be welcomed, as was the recent enhancement of interaction between the treaty bodies and special rapporteurs, which should be pursued on a regular basis. Efforts by the Secretariat to improve co-ordination between the treaty bodies, States and the Department of Public Information should be encouraged.

17. States parties could also contribute to making the system work better. In June 2002, in Geneva, the Government of Australia had hosted the second of three planned workshops on strengthening the treaty body system, under the theme "Towards Best Practice". The workshop had brought together a cross-regional group of 25 countries and participants from the treaty bodies and Committee Secretariats. The reporting process was one area for improvement to which States could contribute directly. Non-reporting, overdue and poor quality reporting were consistent problems. States should aim to submit shorter, more focused reports in a timely manner and to keep their core documents up to date. As a contribution to the overall process of streamlining the reporting process, Australia and New Zealand were providing funding for an OHCHR study to identify elements of best practice in treaty body reporting, for the future guidance of the committees, States and Secretariat. Small developing states often had difficulties in fulfilling their reporting obligations, due to lack of resources, and the treaty bodies had underlined the important role of technical assistance in that connection. New Zealand, in conjunction with the Division for the Advancement of Women, had held a workshop in 2001 for Pacific island countries to provide capacity-building assistance to help them in meeting their reporting obligations under the Convention on the Elimination of All Forms of Discrimination against Women and to encourage ratification of the Convention. The Government of Canada was also sponsoring an international internship programme under which Canadian university students received training that enabled them to provide assistance to developing countries in the drafting of their reports on a variety of human rights conventions.

18. Human rights were a core function of the United Nations, and the treaty bodies were a critical element. The Australian delegation supported calls for increased funding of the Office of the High Commissioner for Human Rights from the United Nations regular budget, and called upon the High Commissioner to ensure that his Office recognized the core function of the treaty bodies by ensuring that those bodies had the resources they required to operate effectively. It was incumbent upon all stakeholders—States, the United Nations, particularly the Office of the High Commissioner for Human Rights, and the treaty bodies themselves—to play their parts in ensuring that the system functioned effectively. Australia, Canada, Chile, Norway and New Zealand were committed to efforts to improve the ability of the treaty bodies to carry out their mandates and enhance the capacity of States parties to meet their obligations.

Agenda item 109: Human rights questions (*continued*)

(d) Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action (*continued*)

19. **Mr. Percaya** (Indonesia) said that the President of Indonesia, Megawati Soekarnoputri, regarded human rights as a priority issue in the country's transition to democracy, with particular emphasis on the implementation of the 1993 Vienna Declaration and Programme of Action. On the basis of the Declaration, Indonesia had adopted its first National Plan of Action

on Human Rights for the period 1998-2003, and was currently drafting a second five-year plan for the period 2003-2008. The first Plan set deadlines for achieving specific objectives in four areas: ratification of international human rights instruments, human rights education, implementation of priority issues on human rights, and implementation of human rights instruments at the national level. During the implementation of the Plan of Action, Indonesia had begun preparations for becoming a party to the core international human rights instruments, and was currently adapting its legislation to bring it into line with those instruments, or enacting new legislation where necessary. The Government was preparing to ratify other instruments as well, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which the Vienna Conference had deemed particularly important for promoting the cause of human rights throughout the world. The National Plan of Action included the promulgation of national laws such as Law No. 39 of 1999 on Human Rights, under which the National Commission of Human Rights had been made competent to summon witnesses and adduce evidence in cases of alleged violations, including cases involving senior civil servants. In addition, under Law No. 26 of 2000, Human Rights Courts had been established to hear human rights cases and punish those found guilty of violations.

20. The past five years had been a decisive period in Indonesia's history: Indonesian society had been undergoing far-reaching changes during the country's transition to democracy while enduring a serious economic crisis. Even in so short a period, however, and despite unfavourable circumstances, the State had made substantial progress in establishing institutions which other countries had taken decades or even centuries to develop. It was, however, up to each individual country to set its human rights priorities in accordance with its interests, culture, customs and resources. Nascent democracies were in need of moral, technical and financial support from the established democracies, but the face of democracy should reflect the image of the nation concerned.

21. In the Vienna Declaration, all nations were urged to undertake measures to the maximum extent of their available resources, with the support of international co-operation, to achieve the goals in the World Summit Plan of Action. Like most developing countries, Indonesia had little in the way of resources and was short of skilled personnel in the area of human rights, especially with respect to the drafting of legislation, the investigation of violations and bringing accused persons to trial. The international community should help the developing countries enhance their national capacities and upgrade their institutions with a view to achieving the goals of the Vienna Declaration and Programme of Action.

The meeting rose at 3.55 p.m.

United Nations A/C.3/57/SR.33

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Chairman: Mr. Wenaweser ..... (Liechtenstein)

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(e) Report of the United Nations High Commissioner for Human Rights

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The meeting was called to order at 10.10 a.m.

Agenda item 109: Human rights questions (*continued*)

(e) Report of the United Nations High Commissioner for Human Rights (A/57/36, A/57/446)

1. **Mr. Vieira de Mello** (United Nations High Commissioner for Human Rights) stressed the importance and difficulty of his mission. At an informal meeting of the Commission on Human Rights, he had outlined some ideas about how he intended to fulfil his mandate; years of experience had led him to the universally held belief that human rights were about ensuring dignity, equality and security for all.

2. The tragic events in Bali and Moscow in October 2002 had heightened the general feeling of insecurity provoked by the attacks of 11 September 2001. No cause could justify terrorism, a phenomenon that must be universally and unequivocally condemned. Successfully countering terrorism, however, required more than rigorous law enforcement; it also required a longer-term and more holistic approach, as well as a determination to ensure that all people enjoyed all their rights.

3. Respect for life and human dignity, which formed the basis for human rights, was a value shared by all cultures and religions. Accordingly, in order to establish global security, it was essential to promote respect for human rights by upholding the primacy of the rule of law, fostering social justice and enhancing democracy. Human rights violations risked breeding hatred, resentment and violence, and it was a matter of concern that some States had taken advantage of the current climate to adopt measures that could be used to suppress fundamental freedoms. He recalled that he had briefed the Counter-Terrorism Committee and discussed potential cooperation modalities with its members, with a view to ensuring that counter-terrorism measures enhanced, rather than undercut, the rule of law.

4. Ensuring security for all was currently a key priority; terrorism, foul though it was, was not the only threat. Discrimination and racial hatred were often the auguries of destructive conflicts, while the challenges of extreme poverty, underdevelopment, HIV/AIDS and the lack of social justice persisted.

5. The countless conventions and declarations that were now part of international law represented one of the most important legacies of the latter half of the twentieth century; the current session of the General Assembly would afford Member States a further opportunity to advance the process by adopting a new instrument: the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

6. It was also to be hoped that the work of the Ad Hoc Committee to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities would lead to the elaboration of another fundamental instrument.

7. International human rights law, international humanitarian law, international refugee law and international criminal law stood as a fundamental defence against assaults on all humanity. Together they represented common ground in a richly diverse and rapidly changing world. Their power lay in their capacity to protect even the most vulnerable, and bind even the most powerful.

8. The value of those laws could, however, only be measured in terms of their universal application. Although much progress had been achieved since the Millennium Assembly on the ratification of the core human rights treaties — with every State Member of the United Nations now a party to one or more of the core conventions — much remained to be done to ensure the universality and proper application of those instruments.

9. As High Commissioner, his approach would be guided by the principle of the rule of law, which required that the full range of institutional arrangements functioning under the constitutions and the legislation of various countries should play an active role to ensure that human rights were advanced, realized and defended in accordance with international commitments. His Office was thus intent on strengthening the rules, processes and institutions of the rule of law, assisted by the newly created working group on democracy.

10. In the months ahead, he planned to make a careful review of his Office's cooperation and assistance programmes to ensure that the necessary support was provided to the major categories of national institutions, as well as to independent national

commissions and civil society organizations at all levels.

11. Conflict often emerged where the rule of law collapsed and, given the supreme difficulty of halting the violence and suffering that resulted, it was vital to make a more serious commitment to prevention, instead of merely intervening after the fact.

12. Since it was essential that all States and armed groups should stop targeting innocent civilians, he was seeking support to ensure that any abuse of that basic rule of conduct was effectively addressed through the rule of law itself.

13. There were many tools available, including the provisions of humanitarian law. The International Criminal Court should also be seen as an instrument for combating impunity for genocide, war crimes and crimes against humanity. He stressed the historic nature of the appointment of the first judges to serve on the Court, and encouraged nomination of women candidates to ensure that the principle of fair representation embodied in the Rome Statute was properly respected.

14. The tragic situation confronting the inhabitants of the occupied Palestinian territories and Israel was a matter of deep concern. That protracted conflict had already claimed countless innocent lives, and human rights and dignity had rarely been as little respected as they were today. The two parties must be encouraged to pursue a human rights-based path to peace, since neither could expect to triumph through violence or repression.

15. The recent outbreak of violence in Côte d'Ivoire was also deeply disturbing. There had been reports of summary executions, arbitrary arrests, attacks based on nationality, ethnicity or religious belief, as well as hate speech, the destruction of private property and population displacement. The authorities and the armed groups must take all necessary steps to put an end to the suffering of the civilian population, comply with the provisions of article 3 common to all four 1949 Geneva Conventions, and cooperate with the mediators from the Economic Community of West African States and the Special Representative of the Secretary-General in order to guarantee respect for human rights and ensure rapid improvement in the humanitarian situation.

16. In the Great Lakes region, thousands had perished as a result of protracted conflict, especially in Burundi and the Democratic Republic of the Congo. Massacres had been committed with impunity, and resources had been diverted to the military, while the population continued to face urgent needs in terms of humanitarian assistance and protection. Efforts must therefore be redoubled to find an immediate resolution of the conflicts in those two countries, to allow for stability and reconstruction.

17. It was also important to further encourage the reconstruction and peace-building efforts of countries emerging from conflict, the situation in Sierra Leone being a good example. The Truth and Reconciliation Commission in that country, which had been established in September 2002, was a promising institution, but it was in need of adequate resources.

18. In Afghanistan, his Office had undertaken to work alongside the Government, civil society, the newly established national Human Rights Commission and its colleagues in the United Nations Assistance Mission in Afghanistan (UNAMA) to build a culture of women's rights, human rights education and justice.

19. Initiatives to protect human rights were not, however, restricted to countries emerging from conflict. His Office worked in more than 40 countries helping to strengthen judicial independence, train the judiciary, police and prison officials and promote the free and active engagement of civil society in public affairs, while continuing to ensure that any violations were appropriately addressed.

20. In order to secure the rule of law, there must be a renewed commitment from all stakeholders. Since respect for human rights was a national responsibility, nationally owned protection mechanisms should be supported to ensure that human rights norms were understood by and accessible to all.

21. He hoped to develop genuine partnerships with civil society, which had a crucial role to play in that connection.

22. He also looked forward to working with the private sector, through the Global Compact and beyond. Globalization only increased the need for concerted action with all entities which had an impact on the realization of civil, cultural, economic, political and social rights, as well as the right to development.

23. Application of the principle of the rule of law to the problem of poverty served to highlight the issue of the right to development. Human development plans, policies and programmes were indeed of fundamental importance for every country. Without the free and active participation of the population, effective and honest governance, social justice, strong international cooperation and solidarity and rights-based and gender-sensitive approaches at every stage of the development process, the right to development would remain an abstraction.

24. He reaffirmed his conviction that human rights were indivisible, and that the right to development must take into account the need to free all individuals from fear and want. For his part, he would give all necessary support to the open-ended working group on the right to development and would work to ensure that his Office's assistance programmes were better integrated into national programmes.

25. In view of the enormous challenges that the international community had to meet, it was important above all to reflect on how to move forward. The Commission on Human Rights had a major role to play in that regard, and he welcomed the fact that a growing number of countries had now issued invitations to special rapporteurs to visit their national territory. All States, however, should follow suit, especially those that were members of the Commission.

26. The Office of the High Commissioner for Human Rights should be allocated additional resources; currently, it received less than 1.54 per cent of the Organization's regular budget, despite the importance accorded to human rights in the Charter of the United Nations.

27. He welcomed the Secretary-General's reports on the reform of the Organization and on the activities of the Office of Internal Oversight Services concerning the management review of the Office of the United Nations High Commissioner for Human Rights; he was in the process of implementing the recommendations in both. A report on the strengthening of the management of the Office would be submitted to the Secretary-General by March 2003.

28. **Mr. Jakubowski** (Poland), presenting an overview of the work of the fifty-eighth session of the Commission on Human Rights, including the problems encountered and the progress accomplished, said that the length of the debates on the worsening human rights situation of the Palestinians and the discontinuation of additional meetings had caused difficulties during the session. Although the expanded Bureau had managed to devise a number of measures to enable the Commission to complete its agenda, there had been a significant cost in terms of participation and the quality of the debate. He hoped that that situation would not constitute a precedent.

29. The Economic and Social Council had endorsed the Commission's request for an additional 14 meetings at its fifty-ninth session to allow it sufficient time to study the special procedures that were so crucial to its smooth functioning, and to maintain and strengthen the longstanding, privileged relationship it had developed with civil society. The Commission had also continued to improve its working methods and had decided, inter alia, that its Bureau would be elected two months prior to each session in order to enable it to participate more effectively in preparations for the session. The Commission would also be embarking on a formal review of its working methods to ensure that it was better equipped to meet future challenges. The expanded Bureau of the fifty-eighth session was in the process of drafting recommendations based on lessons learned which it would submit to the Bureau of the fifty-ninth session. He was pleased to report that there was a larger-than-expected emerging consensus on many important issues. Such an achievement had been the result of extensive consultations with all stakeholders; together with the proposals on the reforms to commence in 2003, it gave the Commission a unique opportunity to reflect on its working methods and effectiveness.

30. Other noteworthy steps taken included the decision to appoint a special rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. That new mandate, adopted by the Commission by consensus and approved by the Economic and Social Council, filled an important gap in the human rights protection system. The Council had also approved the establishment of two new working groups as part of follow-up to the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in 2001, as well as the establishment of a voluntary fund to provide additional resources for various activities relating to the effective implementation of the Durban Declaration and Programme of Action. He also wished to draw the

Committee's attention to the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which had been adopted by the Commission on Human Rights and the Economic and Social Council following 10 years of negotiations. He shared the hope of the High Commissioner that the instrument would be adopted by the General Assembly.

31. Since the Commission's volume of work had continued to increase, the expanded Bureau played a crucial role and it was to its credit that the required consensus for the implementation of time-saving measures had been reached. The Commission's work was only meaningful when combined with that of its partner bodies and mechanisms, and it was in that context that the expanded Bureau's post-sessional activity must be understood. The expanded Bureau had participated in the fourteenth meeting of Chairpersons of Human Rights Treaty Bodies, as well as the ninth annual meeting of special rapporteurs, representatives, independent experts and chairpersons of working groups of the Commission on Human Rights. The expanded Bureau had held constructive, closed consultations with the Subcommission on the Protection and Promotion of Human Rights, and the idea of a possible change in the dates of the Subcommission's annual sessions — which would allow the Commission and the Council to take more rapid action on the Subcommission's decisions — had received wide support.

32. The various meetings to which he had referred had underscored the need for a strengthened relationship between those mechanisms and bodies and for the determination to strengthen the human rights protection system without undermining the independence of the Commission's mechanisms.

33. It was a difficult time for the human rights community, which was faced with an enormous task. He was confident, however, that the difficulties encountered would not prevent the international community from improving the promotion and protection of human rights throughout the world.

34. **Mr. Hahn** (Denmark), speaking on behalf of the European Union, asked the High Commissioner to explain how he perceived his Office's role in the light of the importance attached to the establishment of national systems of justice and the supremacy of the rule of law in promoting international human rights standards; what steps he planned to take to ensure that human rights were placed at the very centre of peace agreements, conflict prevention and post-conflict management; whether he planned to strengthen his Office's cooperation with non-governmental organizations, for example by creating a focal point within the Office; and, lastly, how he evaluated the progress achieved in mainstreaming human rights in the activities of the United Nations system, and whether his Office planned to make any further contribution in that regard.

35. **Ms. Boniver** (Italy), referring to some of the key issues raised by the High Commissioner in his statement to the Commission on Human Rights on 24 September 2002, said that the protection of human rights must go hand in hand with respect for cultural diversity, since both were instrumental in creating conditions that would ensure peace and development. Dialogue among civilizations should be further encouraged and should be free from political prejudice and confrontational attitudes. She would be interested to hear the High Commissioner's views on the prospects for such a dialogue and how his Office might contribute. She would also like him to elaborate on the relationship between cultural diversity and human rights in the activities of United Nations bodies. Lastly, concerning the mainstreaming of human rights in those activities in all policy areas, she would be interested to hear the High Commissioner's view of the role that his Office might play and the contribution Member States might usefully make in that regard. Her Government was currently financing a number of programmes in Geneva and elsewhere and she assured the High Commissioner that it would continue to support his efforts.

36. **Ms. Viotti** (Brazil) said that, as at the previous session, the States members of the Southern Cone Common Market (MERCOSUR) and associated countries would be introducing a draft resolution in support of United Nations activities aimed at assisting countries to strengthen their capacity and improve their systems for the protection of human rights, while respecting the principle of national responsibility. The MERCOSUR countries hoped that the draft resolution would receive the support of a large number of countries, as in the previous year.

37. **Ms. Hasmy** (Malaysia) endorsed the statements made by the High Commissioner that placed the human person at the centre of human rights issues and said it

was essential to maintain a dialogue among civilizations. His delegation hoped that the High Commissioner would pay special attention to the flagrant violations by Israel of the fundamental rights of the Palestinian people. It was gratified that he planned to send a mission to the occupied Palestinian territories and establish an appropriate international presence to monitor the human rights situation in the region. It also hoped that the High Commissioner would finally manage to persuade Israel to implement the decisions concerning it without delay, and thanked him for raising the issue in his statement.

38. **Mr. Vieira de Mello** (United Nations High Commissioner for Human Rights), responding to the questions put to him by the representative of Denmark on behalf of the European Union, reaffirmed his commitment to the rule of law. He was determined to help countries to apply the human rights provisions and standards elaborated by his Office at the national level. He intended to continue, expand and strengthen the technical assistance and cooperation programmes launched by his predecessor in the countries where they existed and to establish new programmes in other countries, with a view to providing various types of assistance, including assistance in the legislative, executive and judicial domains. The experience he had acquired in Kosovo and Timor-Leste would help him in the discharge of his new mandate.

39. As to the importance that should be allocated to human rights in peace agreements, conflict prevention and post-conflict situations, he said that the search for peace had always been — and would remain — his priority. He planned to continue consultations already under way with several parties engaged in conflicts and with mediators with a view to defining the various ways in which his activities could promote peace. It was not in fact sufficient to monitor human rights situations; the countries concerned must also be helped to implement at the national level the solutions that had been devised and to establish national peace-building and conflict-prevention mechanisms. Together with colleagues in the Department of Political Affairs and the Department of Peacekeeping Operations, he had discussed the need to create strong partnerships in the areas of the prevention and settlement of conflicts.

40. Non-governmental organizations had always been essential partners in each and every activity he had carried out as High Commissioner and he intended to continue that collaboration. He would indeed be establishing a coordination centre, as well as a unit for external relations that would bring together the various functions that had previously been distributed among various units of his Office. The unit would consist of a small group responsible for liaison and for cooperation with non-governmental organizations in areas such as the protection of human rights and the establishment of partnerships in the field — as was already being done, for example, in Afghanistan.

41. Concerning the mainstreaming of human rights activities within the United Nations system, he wished to underscore the importance of cooperation with the Department of Political Affairs, the Department of Peacekeeping Operations and other departments at Headquarters. The Under-Secretary-General for Peacekeeping Operations and the Under-Secretary-General for Special Political Affairs had assured him that they would participate in the forthcoming meeting of all the heads of external offices to be held in November in Geneva. Priority areas had been jointly defined with the United Nations Development Programme, the World Bank, the International Monetary Fund (IMF), the World Trade Organization and most of the heads of United Nations funds, programmes and specialized agencies.

42. He did not plan to overload his Office with new activities, since quantity was the worst enemy of quality. Instead, he hoped to reallocate some resources with a view to strengthening operational activities.

43. In response to the observations of the representative of Italy, he reaffirmed that dialogue among cultures was, by definition, essential to promoting tolerance and thus respect for human rights. Together with all Member States, and with Italy in particular, he would explore ways of promoting such a dialogue. He welcomed the proposal concerning the organization of a seminar on the issue made by Italy during its presidency of the European Union.

44. He shared the deep concern expressed by many delegations with regard to anti-Semitism, an age-old phenomenon that saw a cyclical resurgence, with an ever more terrifying aspect, and so-called "Islamophobia", a more recent but equally loathsome phenomenon. He had discussed those issues with several Member States, as well as representatives of the League of Arab States, including its Secretary-General. It was time that those problems were

recognized and the necessary steps taken to resolve them.

45. He thanked the representative of Brazil for her statement in support of the rule of law, which was one of his key priorities.

46. Lastly, he thanked the representative of Malaysia for raising the situation in the Middle East. He would do everything within his power to ensure that in future hopes for peace would not be disappointed. He had recently met with representatives of the Palestinian Authority and Israel, and would spare no effort to bring peace to the region, improve the human rights situation and support the plan drawn up by the Quartet.

47. **Mr. D'Alotto** (Argentina) asked the High Commissioner to comment on the quality of the work of the Commission on Human Rights, which, as an organ of the Economic and Social Council, had a leading role in the promotion and protection of human rights. Given the concerns expressed by his predecessor as High Commissioner and the Secretary-General in their respective reports regarding the work of the latest session, efforts must be made to enhance the effectiveness of the work of the Commission and avoid all politicization.

48. He would also like to know the High Commissioner's opinion on the Secretary-General's proposal concerning the mainstreaming and reform of the work of the human rights treaty bodies and special mechanisms of the Commission on Human Rights. Lastly, he wondered whether the High Commissioner intended to maintain the relations that had been established with the World Bank to ensure that it took account of human rights in its development programmes. He would also like to know whether contacts established with other multilateral institutions, such as IMF, would continue, in particular in the field of social, economic and cultural rights.

49. **Mr. Roshdy** (Egypt), referring to paragraph 26 of the report of the High Commissioner (A/57/36), asked what had become of the "visiting mission" which was to go to the occupied Palestinian territories.

50. Referring to paragraph 55 of the report regarding the increase in block voting by groups, in particular on issues relating to country situations, he said that, although the practice had been particularly in evidence during the fifty-eighth session, it had existed for a long time. He wondered why the issue had not been raised with regard to thematic resolutions.

51. Concerning paragraph 58 of the report, his delegation believed that the reference to the introduction of criteria — a term not used explicitly — for membership of the Commission on Human Rights did not accord with the principle of the national sovereignty of Member States, which were free to choose to which treaties they wished to accede. His delegation therefore wondered whether such criteria were in fact applicable.

52. The International Guidelines referred to in paragraph 100 of the report had never been submitted to Member States, either for consideration or for adoption. It was important to stop imposing the values and beliefs of certain countries, since such practices risked provoking tension. Referring to the section of the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37, annex I) concerning specific sexual acts between consenting adults such as adultery, fornication, fellatio and sodomy, he wondered how categorizing those acts as criminal offences could undermine HIV/AIDS education and prevention activities.

53. **Mr. Xie** Bohua (China) said that the High Commissioner was welcome to visit China to further the cooperation already under way.

54. **Ms. Fusano** (Japan), referring to the recommendation made by the High Commissioner at the request of the Secretary-General to enhance the effectiveness of the treaty monitoring bodies, asked when that recommendation would be implemented. Japanese non-governmental organizations were keen to participate in the work of the treaty bodies. Indeed, when Japan submitted a periodic report to the Committee on the Elimination of All Forms of Discrimination against Women, non-governmental organizations dealing with women's issues submitted a parallel report to the Committee.

55. Her delegation had also been following with special interest recent efforts to improve and strengthen the work of the Office of the High Commissioner for Human Rights and would like to know what special measures or initiatives the High Commissioner planned to adopt in that connection.

56. **Mr. Amoros Nuñez** (Cuba) asked what specific measures the High Commissioner planned to take in

order to enhance the implementation of and follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

57. **Mr. Vieira de Mello** (United Nations High Commissioner for Human Rights), responding to the questions put by the representative of Argentina, said that all speakers had referred to the inefficiency and politicization of the Commission on Human Rights. He was determined to find ways of resolving — or even preventing — such problems, which only undermined the Commission's international credibility. As to the strengthening and streamlining of the treaty monitoring bodies, he would ensure that the recommendations he would make to the Secretary-General in September 2003 would be as balanced, innovative and realistic as possible. He intended to raise the issue of cooperation with the international financial institutions with the International Monetary Fund (IMF), since during the building of Timor-Leste, IMF had proved to be a useful ally and it might be possible to make that cooperation more general.

58. In response to the representative of Egypt, he said that it had not been possible to send a "visiting mission" to the Middle East, to the occupied territories in particular, for reasons that were well known. He remained at the disposal of the two parties and the Commission on Human Rights, from which he awaited guidance and instructions.

59. Referring to paragraph 58 of the report, he said that the suggestions were aimed at strengthening the role and credibility of the Commission on Human Rights and eliminating the recent tendency towards the politicization of its work. Without undermining the sovereignty of any State, it would be both logical and desirable for States members of the Commission to abide by its decisions. They might therefore be expected to ratify the six core instruments and issue standing invitations to all thematic rapporteurs.

60. Paragraph 55 of the report related first and foremost to country-specific resolutions which, unlike thematic resolutions, were more often the subject of block voting and politicization. That was a tendency he deplored, as did most Member States.

61. The purpose of the International Guidelines on HIV/AIDS was to eliminate discrimination against those affected. However, the final document of the special session on HIV/AIDS made no mention of them.

62. In response to the representative of China, he said he welcomed the invitation from the Chinese authorities and hoped to visit the country in the first half of 2003.

63. Replying to the representative of Japan, he said he was convinced that non-governmental organizations could play a constructive role in enhancing the effectiveness of the treaty monitoring bodies and in other areas relating to human rights. Specific measures had been taken to improve the management of his Office. In addition to basic structural changes, such as the creation of an external relations unit, he intended to focus on the following areas: the improvement of policy-making; the translation of policies into programmes and activities, particularly in the field of technical cooperation; and the improvement of internal management within the Office.

64. In response to the representative of Cuba, he described the measures adopted — or envisaged — as follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. First, an anti-discrimination unit had been created within his Office to monitor follow-up activities. In 2003, the unit would be organizing three regional expert seminars for Western European and associated States, Eastern Europe and Asia. The establishment of a working group on the situation of persons of African descent was also envisaged. Contacts had been made with the Chairman of the Commission and various regional groups with a view to bringing the project to fruition at the earliest opportunity. Arrangements had also been made to support the intergovernmental working group on follow-up to the Conference and to elaborate additional measures to combat racial discrimination. Lastly, his Office had organized two Conference follow-up seminars, in Mexico and Kenya.

65. Considerable efforts must be agreed at the national and international levels to draw up a realistic programme of follow-up to the Conference and to determine what his Office's priorities should be in implementing the recommendations of the Conference. For his part, he was convinced that most conflicts in recent decades had their roots in intolerance and racial discrimination; he hoped to focus on those issues and on the follow-up to the World Conference

66. **Ms. Ahmed** (Sudan) asked the High Commissioner to explain how the right to development

might be given practical expression, given the ever-increasing number of people living in absolute poverty and suffering from hunger.

67. Concerning paragraph 55 of the report of the High Commissioner, she hoped that the Commission on Human Rights would be strengthened and that politicization would be avoided, in accordance with the wishes expressed by Member States in the Commission and in the General Assembly.

68. With regard to missions of the Commission on Human Rights to the occupied Palestinian territories, she hoped that the High Commissioner would do his best to normalize the situation. The occupation of the Palestinian territories was the main cause of violence in the region. Unless the occupation ceased and a just and universal peace was established, the situation would prove increasingly difficult to control.

69. **Ms. Ouédragogo** (Burkina Faso), referring to the High Commissioner's comments on the human rights situation in Côte d'Ivoire, asked whether he planned to intervene in order to put an end to the serious violations of human rights in that country.

70. In addition, since the former High Commissioner had proposed in her report that priority should henceforth be given to the establishment and strengthening of national protection systems, she would like to know how his Office planned to approach the issue and whether it contemplated intervening in situations where assistance had not been requested.

71. **Ms. Loemban Tobing** (Suriname) said that her delegation associated itself fully with the High Commissioner's remarks, in particular concerning the role of human rights in development; the adoption of a gender-equality perspective; the need to liberate all peoples from fear and want; the importance of the active participation of civil society, in particular of non-governmental organizations; and recourse to two new instruments, the Comprehensive and Integral International Convention on Promotion and Protection of the Rights and Dignity of Persons with Disabilities and the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

72. She drew attention to the importance of human rights education, which had also been referred to both by the High Commissioner and on several occasions by his predecessor. She agreed that countries must be given assistance in implementing human rights treaties at the national level and in strengthening national human rights institutions. She would welcome information on specific measures required to support human rights at all levels.

73. **Mr. Vigny** (Switzerland) said that he supported the High Commissioner's programme of action and agreed that every State, political movement, regular army, armed group, public institution, private company, group or individual was responsible for applying human rights, international humanitarian law, international refugee law and international criminal law. Those basic rules were of particular importance for combating terrorism, since it was only by scrupulously implementing them that the international community could hope to eliminate the roots of terrorism.

74. With regard to the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which the High Commissioner, like his predecessor, supported, funding should be assured not only by the future State Parties, but also from the regular budget of the United Nations, as in the case of the six core human rights conventions and their five optional protocols.

75. His delegation associated itself with the appeal to all States members of the Commission on Human Rights to extend a standing invitation to all special rapporteurs and special representatives of the Secretary-General to visit their territories for the purpose of monitoring the human rights situation. In addition to the ratification of the six core conventions, such an invitation would demonstrate a State's genuine and resolute commitment to human rights.

76. **Mr. Hussain** (Pakistan) said that the High Commissioner had raised several key issues in his report: the increasing number of human rights violations in the context of counter-terrorism activities; the discrimination which was detrimental to social harmony and bred insecurity; the fate of civilians who continued to be victims of conflicts; the need to combat impunity at the international level; and the domination and discrimination that were among the major causes of conflict in many regions of the world.

77. His delegation hoped that the High Commissioner would pay special attention to conflict situations, especially cases of foreign occupation that were

sources of gross violations of human rights, as in Jammu and Kashmir and Palestine.

78. The report of the High Commissioner omitted, however, to mention massacres of Muslims in the Indian State of Gujarat and the political fascism from which minorities suffered in India. The promotion of human rights required respect for the principles of objectivity and impartiality. It was therefore important not to turn a blind eye to the situation in some countries on the grounds that those countries were democratic and secular. Furthermore, the report failed to take into consideration the measures implemented by countries. For example, Pakistan, had adopted various measures to eradicate violence against women, including the phenomenon of honour crimes. It was also striving to integrate women at all levels of public life.

79. His delegation wondered what action the High Commissioner intended to take in response to the human rights violations in Jammu and Kashmir that had been denounced, inter alia, by several non-governmental organizations.

80. **Mr. Vieira de Mello** (United Nations High Commissioner for Human Rights), responding to the representative of Sudan, said that his Office was adopting a multi-pronged approach. Contacts had been made with United Nations programmes and funds active in the area of the right to development. It was not for his Office to elaborate strategies in that complex domain, but rather to encourage various institutions, such as the World Bank and regional banks, as well as Member States, to take human rights concerns into account in their development strategies. As for the tendency towards politicization in the work of the Commission on Human Rights described in paragraph 55 of his report, he would be taking steps to check the phenomenon. He also concurred with the remarks made by the representative of the Sudan concerning Palestine. In response to the representative of Burkina Faso, he said that steps had already been taken to try to put an end to the violence in Côte d'Ivoire. He had also written to the combatants to remind them of the importance of respecting human rights. He would do his utmost to encourage a return to normalcy, in particular to that spirit of tolerance without which a resumption of negotiations and the implementation of earlier recommendations on national reconciliation would be difficult. Technical cooperation activities undertaken at the request of Member States would also be continued.

81. In response to the representative of Suriname, he said that in the area of human rights education, he would continue the work of his predecessor and try to bring about a change in mentality and a spirit of tolerance. He intended, inter alia, to promote human rights education at the primary and secondary levels and to make such education more widespread. He also hoped to raise awareness of the work of United Nations human rights mechanisms, which was still largely unknown. There was also a need to disseminate throughout the world the message that much remained to be done on human rights and that each individual had a role to play in that regard.

82. In response to the representative of Switzerland, he said that he had made several specific recommendations concerning respect for human rights in the context of counter-terrorism, some of which echoed recommendations made by his predecessor. He hoped that the Counter-Terrorism Committee, which was currently studying those recommendations, would respond favourably. He took note of the suggestion made by the representative of Switzerland concerning the funding of the draft optional protocol. It should be noted that only one more ratification was needed for the entry into force of the Convention on the Rights of Migrants; he hoped that the twentieth ratification would take place before the end of the current session of the General Assembly.

83. Replying to the representative of Pakistan, he said that he would give particular attention to situations of conflict and occupation and other threats to peace at the regional and international levels. He would study the different situations and hold consultations with the parties concerned to ensure that his Office's actions were better targeted. The situation of women would also be one of the priorities of his mandate.

84. **Mr. Alaei** (Islamic Republic of Iran) said that an invitation had been issued to all special rapporteurs to visit his country. In order to promote and protect human rights, it was essential to respect cultural diversity. Otherwise, it would not be possible to combat hatred, suspicion and stereotypes, promote security and avoid violence, conflict and war. He recalled the special initiative of the former High Commissioner for Human Rights in establishing a dialogue between Islamic countries and the West,

involving politicians, experts and intellectuals, for the purpose of improving understanding and facilitating partnership. He wondered whether the new High Commissioner planned to follow in the path of his predecessor.

85. **Ms. Acosta** (Mexico) said that she associated herself with the thrust of the High Commissioner's statement. It was equally important to ensure respect for human rights standards at both the national and the international levels. Mexico, for its part, attached great importance to respect for human rights and, in that connection, it welcomed the technical cooperation agreement concluded with the Office of the High Commissioner. Her delegation also welcomed the establishment of a working group on democracy and the rule of law, and would appreciate further information in that connection. It believed that there was indeed a need to avoid politicization of the work of the Commission on Human Rights and regretted that the resources allocated to the Office of the High Commissioner were not commensurate with the tasks at hand.

86. **Mr. Sinaga** (Indonesia) said that his Government was determined to combat terrorism, while maintaining respect for human rights. He welcomed the High Commissioner's commitment to take active steps to combat the new tendency for counter-terrorism efforts to target specific religious or national groups and asked whether he intended to adopt specific measures in that regard.

87. **Mr. Vieira de Mello** (United Nations High Commissioner for Human Rights) said that he agreed with the comments of the representative of the Islamic Republic of Iran concerning cultural diversity and dialogue among civilizations and cultures. He did indeed intend to continue his predecessor's initiative in that area, inter alia, through cooperation with the League of Arab States.

88. Responding to the representative of Mexico, he said that his Office would continue its technical cooperation programme with Mexico; he agreed that respect for human rights was indeed primarily a national rather than an international responsibility. The purpose of the working group on democracy and the rule of law was to assist Member States in those two areas; its smooth operation depended not on additional financial resources but on intellectual capacity. A conference devoted to that theme would be held in Geneva in late November, with the participation of international experts.

89. Responding to the representative of Indonesia's concern regarding the impact of counter-terrorism on human rights, he said that he had already raised the issue with the Secretary-General of the League of Arab States and various countries and regional groups and that he planned to take specific steps to raise awareness of Islam as a religion, culture and civilization based on peace and tolerance.

The meeting rose at 1.10 p.m.